

# Supreme Court of Canada has Removed The Mandatory Minimum Sentence For The Crime Of Child Luring | Contacting with the intent to commit sexual exploitation, incest, child pornography, or sexual assault | Calling a minimum 1 year unconstitutional? WTF?



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***The Supreme Court confirms that mandatory minimum sentences for child luring are unconstitutional.*** ~ citation: 2023 SCC 26

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**In an alarming turn of events**, the Supreme Court of Canada has removed the mandatory minimum sentence for the crime of child luring, effectively placing the rights of the perpetrator above those of their victims, ignorant of the damages they and their families suffer that surely will last a lifetime.

### 39935-40093-eng

The Supreme Court confirms that mandatory minimum sentences for child luring are unconstitutional.

39935-40093-eng.pdf • 26 KB



## SUPREME COURT OF CANADA

### Case in Brief: ***R. v. Bertrand Marchand***

Judgment of November 3, 2023 | On appeal from the Court of Appeal for Quebec  
Neutral citation: 2023 SCC 26

*disponible en français*

***The Supreme Court confirms that mandatory minimum sentences for child luring are unconstitutional.***

Section 172.1(1) of the *Criminal Code* sets out the offence of child luring. This offence is committed when an adult uses telecommunication to target a child, or a person believed to be a child, for the purposes of committing another offence against that child, such as sexual exploitation, sexual assault, incest and child pornography. It is a hybrid offence, which means the Crown prosecutor can choose to proceed by indictment (a more serious offence) or by summary conviction (a less serious offence). The mandatory minimum sentence for child luring is one year's imprisonment if the offender is guilty on indictment and six months' imprisonment if the offender is guilty on summary conviction.

Child luring falls under criminal code s. 172.1 and speaks to contacting or attempting to contact someone under the age of 18 with the intent to commit sexual exploitation, incest, child pornography, or sexual assault.

It is the communications that occur between the perpetrator and victim with the intended purpose of committing other offences against that child.

It is considered a hybrid offence, which allows prosecutors to choose to proceed by indictment (for more serious offences) or by summary conviction (for less serious).

The previous mandatory minimum sentence, deemed so egregious as to be a breach of the offender's Section 12 Charter rights, was imprisonment of one year if found guilty on indictment, and six months if found guilty on summary conviction.

Finally, Section 12 of the Charter of Rights and Freedoms safeguards against "cruel and unusual punishment".

With these facts now in mind, the burning question is this: when we're dealing with crimes against the most precious and vulnerable of our population, can there really be a sentence too harsh? If so, would you consider 6 months or 1 year (depending on severity) of incarceration to meet that definition, or do you agree that this would be cruel and unusual?

Sadly, what we are sure to see as a result is an increase in offences; we have effectively emboldened the perpetrators, showing that a slap on wrist is likely all they will get.

Our PM continues to create a revolving door for those who commit violent crimes, specifically against the vulnerable. The police are frustrated; despite the hours of legwork to get offenders off our streets, they are being released again before the ink is even dry.

Dallas Ludlum (Vigilant News) summarizes it perfectly, "At what point does the interpretation of the law cease to serve the very individuals it was enacted to shield?"

Supreme Court Case in Brief source; <https://scc-csc.ca/case-dossier/cb/2023/39935-40093-eng.aspx>

Source: <https://vigilantnews.com/post/trudeaus-canada-gets-even-worse-as-supreme-court-chooses-pedophiles-over-children/>

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